IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL REVISION No. 120 of 2007

JUMMADIN
V/S
SAWAI & ORS.

Mr. RAKESH ARORA, for the appellant / petitioner

Mr. MC BHOOT, for the respondent

Date of Order : 6.8.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

It is informed by learned counsel for the respondent that another suit has been filed by his clients with respect to the same mine, which is already pending in the trial Court, and therein the present plaintiff is already appearing, and that on the ground of the impugned ex-parte decree, the temporary injunction application in the another suit has been dismissed, which order has been set aside by Division Bench of this Court, and the matter has been remanded.

In my view, may be that the appellant contends that in the present case the summons were duly served and defendant did not appear, and that application was not filed strictly within 30 days, however the totality of circumstances, including the fact that other litigation with respect to the same mine is pending between the same

parties, it will be wholly unjust to provide a march over to the present plaintiff in the litigation, merely on the basis of the ex-parte decree, so as to throttle the cause of interest. It would be in the interest of justice that if the matters are heard on merits. In that view of the matter, I do not find any sufficient ground to interfere with the order in my revisional jurisdiction. The revision petition is, therefore, dismissed.

(N P GUPTA),J.

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